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CAMPBELL STEVENSON ASCOLESE LLP
4807 SPICEWOOD SPRINGS RD
BLDG 4 SUITE 201
AUSTIN TX 78759

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OFFICE OF PETITIONS

In re : DECISION REGARDING
Uzun, et al. : PATENT TERM ADJUSTMENT
Application No. 09/854,416 :
Filed: May 11, 2001 :
Attorney Docket No. CIS0161US :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705", filed January 5, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred fifty (550) days to seven hundred seventy-four (774) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **seven hundred seventy four (774) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 6, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is five hundred fifty (550) days. On January 5, 2006, applicants timely¹ submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is

¹ Applicants filed the PTA application with the issue fee.

seven hundred seventy-four (774) days.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

Applicants assert entitlement to a patent term adjustment of seven hundred seventy-four (774) days on the basis that the PTO improperly assessed applicants a delay of two hundred twenty-four (224) days for responding to an Office action mailed on August 23, 2004.

The Office initially determined a patent term adjustment of five hundred fifty (550) days based on an adjustment for PTO delay of seven hundred seventy-four (774) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicants' delay of two hundred twenty-four (224) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(b). The adjustment of 224 days is at issue.

The adjustment of 224 days has been found to be incorrect. Because the Office action mailed on May 10, 2005 restarted the period for reply, applicants should not have been assessed any delay for timely filing their response on July 5, 2005.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **seven hundred seventy-four (774) days** (774 days of PTO delay and 0 days of applicant delay).

The \$200.00 fee set forth in 37 C.F.R. §1.18(e) has been charged to Deposit Account No. 50-2306, as authorized.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen